

Remarks

For the reasons set forth below, Applicant respectfully submits that the claimed invention is allowable over the cited references.

The Office Action dated March 20, 2008 listed the following objections and rejections: claims 1-3 and stand rejected under 35 U.S.C. § 102(b) over the Mitsubishi reference (U.S. Pat. 6,545,318); and claims 12-14 stand rejected under 35 U.S.C. § 103(a) over the Mitsubishi reference. Applicant respectfully traverses these rejections. Applicant further notes that claims 15-19 have been withdrawn as being allegedly directed to a non-elected invention.

Applicant traverses the restriction of claims 15-19, along with the withdrawal of these claims due to an alleged constructive election. The Office Action provides no basis for the restriction of these claims other than conclusorily stating that the subject matter of claims 15-19 is similar to the previously-withdrawn claims. Applicant submits that such a statement is insufficient in view of the evidence requirements of 35 U.S.C. § 132. The observation that newly added claims recite subject matter that might in some way be similar to previously restricted claims cannot by itself be used as a basis for further restriction. If it were otherwise, then virtually all newly added claims in patent applications including a previous restriction would be subject to further restriction. Applicant submits that no effort has been made to demonstrate that the circumstances for constructive election as set for in M.P.E.P. § 818.02(a) and (c) apply to new claims 15-19. For these reasons, reconsideration and withdrawal of the restriction of claims 15-19 is requested. Applicant further submits that, because claim 15 is formulated as a linking claim between the two originally-restricted species, upon its allowance Applicant is entitled to a reasonable number of dependent claims, including those to a Deep P implant layer.

The § 102(b) rejection of claims 1-3 is improper because the Mitsubishi reference does not teach all the features recited in Applicant's claims. In particular, the Mitsubishi reference does not appear to disclose a thin film SOI device having a deep implant layer formed between either the source or drain and the SOI layer to prevent flow of current between the source and drain via a parasitic MOS channel when the device is in an off state. Applicant submits that the regions identified in the Office Action (*see, e.g.*, regions 73 and 83 in Fig. 19) as corresponding to the claimed deep implant layer are in fact

lower-doped portions of the source and drain regions, respectively, and have the same conductivity type as the remaining part of the source and drain (*see, e.g.*, Col 4:58-64, in reference to Fig. 1). The identified regions in the Mitsubishi reference therefore cannot perform the claimed function of preventing flow of current between the source and the drain via a parasitic channel because the identified regions conduct the same carriers as the remaining part of the source and drain.

The Office Action also provides no correspondence for the claimed feature of the deep implant layer being situated between the source (or the drain) and an SOI layer. First, it is unclear to Applicant exactly what is considered to be the SOI layer. The Office Action cites to portion 3 as the SOI layer, which contains the source and drain regions, the channel regions, the channel stops, and so forth, none of which has been individually identified as corresponding to the claimed SOI layer. Moreover, the regions 73 and 83 identified in the Office Action as deep implant layers are shown in Fig. 19 to extend all the way to the buried oxide film 2. As such, there is no layer that could be considered to be an SOI layer disposed beneath the region 73.

Applicant submits that the Office Action misinterprets the Mitsubishi reference. Rather than the region 73 of Mitsubishi being deep implant layers, Mitsubishi discloses an impurity layer 122 positioned underneath the buried oxide film 2. In this aspect, the Mitsubishi construction corresponds to the construction disclosed in the Krivokapic reference (U.S. Patent 6,339,244), which Applicant distinguished in the arguments supporting the RCE transmitted January 31, 2008 and in the Response transmitted December 26, 2007. For the same reasons disclosed in those documents, Applicant submits that the present claims are distinguished from the Mitsubishi reference.

For at least these reasons, Applicant submits that the § 102(b) rejection is improper because the Mitsubishi reference does not teach or suggest all the features recited in claims 1-3. Reconsideration and withdrawal of the rejection is therefore requested.

In view of the above discussion, Applicant submits that the § 103(a) rejection of claims 12-14 in view of the Mitsubishi reference is improper. Dependent claims cannot be deemed unpatentable over a reference when claims from which they depend include features that are not disclosed by the reference. For at least this reason, Applicant requests reconsideration and withdrawal of the § 103(a) rejection.

In view of the remarks above, Applicant believes that each of the rejections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, Peter Zawilski, of NXP Corporation at (408) 474-9063 (or the undersigned).

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